

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

3 UNITED STATES OF AMERICA, Case No. 3:19cr4
4 Plaintiff, Toledo, Ohio
August 8, 2019

5 | vs.

6 VINCENT S. ARMSTRONG,
aka VINCENT ARMSTRONG,

Defendant.

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE JAMES R. KNEPP, JR.
UNITED STATES MAGISTRATE JUDGE

CHANGE OF PLEA HEARING

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1 P R O C E E D I N G S

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3 THE CLERK: United States District Court is now in
4 session. The Honorable James R. Knepp presiding.

5 THE COURT: Please be seated, everyone.

6 The next matter before the court is the United
7 States of America versus Vincent S. Armstrong. It's Case
8 Number 3:19cr4.9 Mr. Armstrong is present in the courtroom this
10 afternoon. He's joined at counsel table by a distinguished
11 member of our CJA panel, Attorney Nightingale. Here on
12 behalf of the government is AUSA Freeman.13 It's my understanding the matter comes on this
14 afternoon for a change of plea or a re-arraignment, at which
15 time Mr. Armstrong is expected to withdraw his plea of not
16 guilty and enter a plea of guilty pursuant to a plea
17 agreement, an example of -- or at least a copy of which I
18 have seen.19 Mr. Armstrong, there are several steps we have to
20 go through this afternoon. It's not just as easy as me
21 saying, "How do you plead," and you say, "Guilty." We have
22 to go through a couple of different -- a couple of different
23 things.24 First of all, we have to talk about your agreement
25 to appear before me as opposed to one of the district

1 judges, and talk about the differences there.

2 We have to make sure you're competent.

3 We have to make sure that you understand your
4 trial rights. I have to go through those in a little bit of
5 detail with you, make sure you understand the rights that
6 you're waiving.

7 I have to make sure that you fully understand the
8 nature of the charges, and I have to make sure that this is
9 being done voluntarily, that you've not been subjected to
10 some threats or promises beyond the scope of the plea
11 agreement. So that's kind of how we're going to proceed.

12 The first thing we'll talk about is your agreement
13 to appear before me here this afternoon. This goes all the
14 way back to the founding of the country. At the time the
15 colonists wrote the Declaration of Independence, they were
16 pronouncing to King George that, in fact, the same King
17 employed the judges and the prosecutors, and they thought
18 that doesn't seem quite right. So that was one of the --
19 one of the grievances that they aired in the Declaration of
20 Independence.

21 If we fast-forward to 1787, when the -- at the
22 constitutional convention, and they adopted the
23 Constitution, Article III of the Constitution provided for
24 an independent judiciary as a separate and coequal part of
25 government, and one of the foundations or cornerstones of

1 that Article III is the notion that we have life-tenured
2 judges in the federal system.

3 To this day, that's still the case. We have, in
4 this very building, there are some life-tenured judges and
5 there are some judges that serve terms. Life -- among the
6 life-tenured judges is Judge Carr, to whom your case is
7 ultimately assigned. And he's appointed pursuant to Article
8 III of the Constitution for a life tenure.

9 I am, on the other hand, appointed pursuant to
10 Article I of the U.S. Constitution. And the most notable
11 difference there is I serve eight years at a time and I have
12 to be reappointed every eight years.

13 I can do a lot of the same things that an Article
14 III judge does, but for some of the really critical things,
15 like listening to a man plead guilty for a felony charge, I
16 have to do that with the person's consent.

17 So I'm going to ask you some fairly
18 formalistic-sounding questions, but I just want to give you
19 a little bit of back -- the back story on why I am doing
20 that.

21 Do you understand that you have the right to
22 have -- I'm sorry. You should never eat peanuts before you
23 come into court. That's -- that just does not -- that does
24 not go well, because I've got one stuck in my mouth.

25 Do you understand that you have the right to have

1 these proceedings conducted by a United States district
2 judge, that is, by a judicial officer who serves a life
3 tenure?

4 Do you understand that?

5 THE DEFENDANT: Yes.

6 THE COURT: Do you understand I am not a district
7 judge? They don't eat peanuts before they come into court.
8 I am what's called a United States magistrate judge. I
9 serve an eight-year tenure. I have to be reappointed every
10 eight years.

11 Do you understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: Are you knowingly and voluntarily
14 agreeing to appear before me this afternoon for purposes of
15 conducting this proceeding even though I am not a district
16 judge?

17 THE DEFENDANT: Yes.

18 THE COURT: All right. I have in front of me a
19 written consent, which appears to have your signature and
20 that of Mr. Nightingale.

21 Did you understand this form when you signed it?

22 THE DEFENDANT: Correct.

23 THE COURT: Okay. I will find that you have
24 knowingly and voluntarily consented to appear before me this
25 afternoon, and we will proceed.

1 In a moment I am going to place you under oath.
2 Before I do that, I want to caution you about a couple of
3 things. First of all, of course, if you say something
4 that's not true once you're placed under oath, you could be
5 prosecuted for perjury. That's probably obvious.

6 Perhaps less obvious is part of pleading guilty is
7 going to involve me asking and presumably you telling me
8 that you did, in fact, do what the government says you did.
9 That would otherwise be a pretty spectacular violation of
10 your Fifth Amendment right to never have to testify against
11 yourself, but as part of pleading guilty in federal court,
12 at least in my courtroom, you're going to have to admit that
13 you did what the government says you did, and that, as I
14 said, would be violative of your Fifth Amendment right for
15 anyone to ask you that except in this particular
16 circumstance. So that's -- that's coming.

17 I guess I always also right about now make sure
18 you understand that I am going to go through a lot of
19 different things today. I am going to say, "Do you
20 understand you have this right? Are you willing to waive
21 that right?" And we'll do that multiple times.

22 I'm never going to ask you to waive your right to
23 counsel. Your right to have an attorney with you in this
24 case stays with you as long as this case stays with you. So
25 there is absolutely nothing that we are doing today that in

1 any way even puts a piece of paper in between you and
2 Mr. Nightingale.

3 Do you understand that?

4 THE DEFENDANT: Yes.

5 THE COURT: Okay. With that, I will ask you,
6 please, to stand and raise your right hand. I am going to
7 place you under oath.

8 (Defendant sworn.)

9 THE COURT: Please be seated.

10 Will you tell me your full name, please?

11 THE DEFENDANT: Vincent Steven Armstrong.

12 THE COURT: And how old are you, Mr. Armstrong?

13 THE DEFENDANT: Twenty-three.

14 THE COURT: And in what town did you reside before
15 you were taken into custody?

16 THE DEFENDANT: Toledo, Ohio.

17 THE COURT: Are you married, sir?

18 THE DEFENDANT: No.

19 THE COURT: Do you have any dependent children?

20 THE DEFENDANT: No.

21 THE COURT: How far did you go in school?

22 THE DEFENDANT: Some college.

23 THE COURT: So you're able to read and write with
24 no difficulty?

25 THE DEFENDANT: Yes.

1 THE COURT: Have you taken any medicine, any
2 alcohol or any drugs of abuse in the last day or so that
3 would in any way impair your ability to understand what's
4 going on here?

5 THE DEFENDANT: No.

6 THE COURT: Is your mind clear?

7 THE DEFENDANT: Yes.

8 THE COURT: Do you understand you're sitting in
9 the courtroom -- in a courtroom in the courthouse in Toledo,
10 Ohio?

11 THE DEFENDANT: Yes.

12 THE COURT: What type of work have you done most
13 recently before you were taken into custody?

14 THE DEFENDANT: Forklift operator.

15 THE COURT: And how is your physical health?

16 THE DEFENDANT: Good.

17 THE COURT: Have you ever been under the care of a
18 doctor or a hospital or a clinic or a counselor or anything
19 like that for any kind of mental health situation?

20 THE DEFENDANT: No.

21 THE COURT: Mr. Nightingale, have you had any
22 difficulty communicating with Mr. Armstrong?

23 MR. NIGHTINGALE: No, Your Honor.

24 THE COURT: Do you believe he understands the
25 nature and purpose of our hearing here today?

1 MR. NIGHTINGALE: I do.

2 THE COURT: Do either you or Mr. Freeman have any
3 reservations about his mental competence here?

4 MR. NIGHTINGALE: I do not.

5 MR. FREEMAN: I do not, Your Honor.

10 Mr. Armstrong, have you had enough time to speak
11 with Mr. Nightingale while this case has been proceeding?

12 THE DEFENDANT: Yes, I have, Your Honor.

13 THE COURT: Have you told him everything you know
14 about the case?

15 THE DEFENDANT: Yes.

20 THE DEFENDANT: Yes, I have.

21 THE COURT: Have you talked with him about what a
22 trial might look like and what your odds would be and those
23 kind of questions that I would think somebody contemplating
24 entering into a plea would want to have those kind of
25 conversations with his lawyer?

1 Have you had those?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Kind of a big-picture question here,
4 sir: Are you satisfied with the legal representation which
5 you've had in this case?

6 THE DEFENDANT: Yes, I am.

7 THE COURT: Mr. Nightingale, have you had enough
8 time to prepare Mr. Armstrong at each and every stage of
9 this proceeding?

10 MR. NIGHTINGALE: I have.

11 THE COURT: And remember, Mr. Armstrong, if you
12 need to stop and talk with him at any point during the
13 proceeding, just let me know and we'll stop and you can ask
14 him a question. That's fine. Okay?

15 THE DEFENDANT: Awesome.

16 THE COURT: I know that it's spelled out a little
17 bit in the plea agreement, but I -- as part of -- the part
18 of this proceeding that's called an arraignment or
19 re-arraignment involves me ascertaining pretty specifically
20 that you understand the nature of the charges and of the
21 potential penalties. So at this point, I am going to ask
22 Mr. Freeman to describe for us the charge or charges to
23 which we anticipate that Mr. Armstrong is going to change
24 his plea, and as you do that, talk about what the potential
25 punishment could be for a conviction as to those charges, or

1 that charge.

2 MR. FREEMAN: Certainly, Your Honor.

3 Pursuant to the plea agreement that we will get to
4 in a moment, the defendant is agreeing to plead guilty to
5 Count 1 of the indictment, which is conspiracy to transport
6 or receive an explosive with the intent to kill, injure or
7 intimidate any individual, and maliciously damage or destroy
8 property by fire or explosive.

9 The statutory elements of that particular offense
10 is, one, the defendant did conspire, combine, confederate
11 and agree with another person; and two, the agreement was to
12 transport or receive in interstate or foreign commerce an
13 explosive, with the knowledge and intent that it will be
14 used to kill, injure or intimidate any person; and the
15 agreement was to maliciously damage or destroy by means of
16 fire or explosive materials a building, vehicle or other
17 real or personal property used in interstate or foreign
18 commerce or in any activity affecting interstate or foreign
19 commerce.

20 The statutory penalties associated with that
21 violation, there is a statutory mandatory minimum of 5
22 years, or 60 months, of imprisonment, with a statutory
23 maximum of 20 years. There is a maximum statutory fine of
24 \$250,000, a maximum period of 3 years of supervised release.
25 And seeing that it is a federal felony, there is a mandatory

1 \$100 special assessment.

2 If the defendant were to be placed on a period of
3 supervised release and violate a term or condition of that
4 supervised release, he could be subjected to an additional
5 penalty, including additional incarceration. With that in
6 conjunction with the original sentence could actually exceed
7 the statutory maximum.

8 THE COURT: Thank you, Mr. Freeman.

9 Is that consistent with your understanding of the
10 charge to which you're contemplating changing your plea,
11 Mr. Armstrong?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: So you can tell me that you do
14 understand the nature of that charge?

15 THE DEFENDANT: Yes.

16 THE COURT: And you understand that if you enter a
17 plea of guilty with regard to that charge, you're going to
18 be waiving any right to claim innocence as to that count?

19 THE DEFENDANT: Correct.

20 THE COURT: So knowing Mr. Nightingale as I do,
21 I'm confident that he's talked with you about your trial
22 rights, but as I read Rule 11, it says that I have to have a
23 chat with you. It actually doesn't use the word "chat," it
24 says "colloquy," but I say "chat." It says I have to talk
25 to you about your trial rights, which will be waived if you

1 enter a plea today.

2 Under the laws of the United States, you have a
3 right to have a trial. That trial could be to a judge, but
4 will almost certainly be to a jury. At that trial, you have
5 the right to confront and cross-examine any witnesses that
6 the government might bring in to testify against you. You'd
7 have the right to compel the attendance of any witnesses you
8 wish to have come in and testify on your behalf at the
9 trial.

10 Do you understand all that?

11 THE DEFENDANT: Yes.

12 THE COURT: Okay. At the trial, you'd have the
13 right to testify yourself if you wanted to. You'd also have
14 the right to not testify. And if you chose not to testify,
15 nobody could hold that against you. The government couldn't
16 comment about it. The jury would be instructed that it
17 would be a violation of their oath if they held it against
18 you if you chose not to testify.

19 At the trial, the government always has the burden
20 of proof. You begin the trial not guilty. You have a
21 presumption of innocence, they call it. But what that just
22 means is, at the beginning -- at the beginning of the trial,
23 you are not guilty, and you stay not guilty unless and until
24 the government proves your guilt beyond a reasonable doubt.

25 And that's a really -- that's a hard burden. It's

1 typical for the jury to hear an instruction along the lines
2 of the kind of evidence that they would need to make the
3 most important decision in their life.

4 Do you understand all of that?

5 THE DEFENDANT: Yes.

6 THE COURT: So if the case went to trial, we'd
7 bring in a bunch of prospective jurors from around this
8 division of the district, which is 21 counties, we'd bring
9 them here to the courthouse and we'd have a process called
10 voir dire.

11 And what that is, is it's just sort of asking
12 questions to the jurors to make sure or to ascertain that a
13 particular juror can be fair and impartial. In other words,
14 can they adjudicate the case based on the evidence that they
15 see and hear in the courtroom and follow the instructions of
16 law that the judge gives them and not be unduly influenced
17 by other things and other thoughts, that kind of thing.

18 So once we had a jury that -- or a panel, anyway,
19 that the judge was convinced could be fair and impartial,
20 then each side would have an opportunity to dismiss some
21 jurors for what are called peremptory challenges. And those
22 are -- those are challenges that you get to dismiss them and
23 you don't have to say why. You can send home a juror just
24 because you don't want that juror to be on your case. The
25 defendant typically gets ten of those and the government

1 gets six of those.

9 Do you understand all of that?

10 THE DEFENDANT: Yes.

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Do you understand you have a right to
16 maintain your plea of not guilty here?

17 THE DEFENDANT: Yes, Your Honor.

20 Do you understand you don't have to plead guilty
21 even if you are guilty? You don't have to plead guilty even
22 if you're guilty.

23 Do you understand that?

24 THE DEFENDANT: Yes.

25 THE COURT: You could maintain your plea of not

1 guilty and then you'd have a right to have a trial. You'd
2 have a right to have counsel at the trial. And if you
3 couldn't afford counsel, the court would continue to provide
4 counsel for you.

5 Do you understand all of that?

6 THE DEFENDANT: Yes.

7 THE COURT: So if the case went to trial and if
8 you were convicted, you'd have a right to appeal your
9 conviction, and you'd also have a right to appeal your
10 sentence under certain circumstances.

11 I call to your attention the plea agreement
12 contains a waiver of your appellate rights. And it's really
13 broad. Frankly, it's as broad as it can be and still be
14 enforceable. So, in other words, you're waiving every
15 appellate right that you can legally waive.

16 You're preserving certain appellate rights;
17 namely, prosecutorial misconduct, ineffective assistance of
18 counsel and a sentence outside of -- outside of the statute
19 or the guidelines. But as a practical matter -- above that
20 guideline maximum anyway. As a practical matter, it's a
21 pretty broad waiver of your right to appeal.

22 Do you understand that?

23 THE DEFENDANT: Yes.

24 THE COURT: And I further caution you that our
25 Court of Appeals, which is the Sixth Circuit down in

1 Cincinnati, tends to enforce those terms. So you would --
2 such a waiver. You would be -- it would be imprudent for
3 you to sit here today and waive your right to appeal and
4 think that you could just take an appeal anyway, because our
5 Court of Appeals tends to enforce those.

6 Do you understand everything I've told you so far?

7 THE DEFENDANT: Yes.

8 THE COURT: All right. So if you -- if you plead
9 guilty when I ask you how do you plead today, you're going
10 to be waiving all these rights we've talked about, and
11 what's going to happen is I'm going to make a recommendation
12 to Judge Carr. He's going to review the transcript.
13 Assuming he concurs with my findings, he's going to enter a
14 judgment of guilty, and then ultimately you're going to be
15 sentenced in this case based on that guilty adjudication as
16 well as the presentence investigation report, which will be
17 prepared between now and then. So that's what's going to
18 happen.

19 So I don't know to what extent you are presently
20 possessed of these rights, but let me caution you that
21 pleading guilty will have an effect in some instances
22 permanently, in some instances temporarily, upon some
23 important rights that most citizens have.

24 So you should expect your guilty plea to,
25 certainly for some period of time, at least, interfere or

1 deprive you of your right to hold public office, your right
2 to vote, your right to sit on a jury. And I can state in no
3 uncertain terms, I think Mr. Freeman may have stated, but
4 I'll say it this way -- maybe not.

5 If you were -- if you're convicted of a felony in
6 federal court, you will never again for the rest of your
7 life ever legally possess a firearm or ammunition.

8 Do you understand that?

9 THE DEFENDANT: Yes.

10 THE COURT: Okay. I'm going to turn now to the
11 plea agreement to which I had an opportunity to review
12 earlier today. And I trust you've had an opportunity to
13 review it, Mr. Armstrong?

14 THE DEFENDANT: Yes, I have.

15 THE COURT: And you've gone through it and you've
16 talked about it with Mr. Nightingale?

17 THE DEFENDANT: Yes.

18 THE COURT: Okay. I'm going to go through it, or
19 ask Mr. Freeman to go through it one last time here in open
20 court. He's not going to read it, but he's going to talk
21 about some of the pertinent provisions in this plea
22 agreement.

23 I want you to listen carefully. I want you to
24 follow along. And I want everything that you hear him say
25 to be completely consistent with your understanding of

1 what's contained in this plea agreement.

2 If you hear something that isn't completely
3 consistent with what you think is in there, we need to stop
4 and you need to talk to Mr. Nightingale and we need to
5 figure out what's wrong. Okay? Because at the end, what's
6 written on these pages is what's going to ultimately
7 control. But this is just one last chance to make sure that
8 you completely understand everything on these pages. Okay?

9 THE DEFENDANT: Yes.

10 THE COURT: All right. Mr. Freeman.

11 MR. FREEMAN: Thank you, Your Honor.

12 The written plea agreement as referenced by the
13 court is a 12-page document, including the signature page.

14 I'll begin on page 1. That this is pursuant to
15 Rule 11(c)(1)(A) and (B), meaning there are recommendations
16 by both parties, but this agreement is not binding upon the
17 court.

18 Paragraph 1 sets forth the waiver of
19 constitutional trial rights. I'm not going to go through
20 them again. They just set forth the same trial rights that
21 the court went over with Mr. Armstrong. And he understands
22 that he's giving up all of those rights, with the exception
23 of his right to counsel.

24 Paragraph 2 sets forth the statutory penalties as
25 I had went over at the beginning of this hearing. That

1 there is a mandatory minimum 5 years and a maximum of 20
2 years. Additionally, there is the supervised release. And
3 if he were to violate, he would be subjected to additional
4 penalties.

5 Paragraph 7 sets forth that he agrees to plead
6 guilty to Count 1 of the indictment in this case. In
7 exchange, at the time of sentencing, the government will
8 move to dismiss Counts 2, 3 and 6 of the indictment.

9 Additionally, the United States Attorney's Office will not
10 bring any other criminal charges against the defendant for
11 violations known to the United States Attorney's Office on
12 the date of this execution, that being today.

13 Paragraph 9 sets forth the statutory elements of
14 the crime in which he is pleading guilty to, that being 844,
15 subsection (n), as I had previously gone over at the
16 beginning of this hearing.

17 Paragraph 10 sets forth that there are sentencing
18 guidelines. And the defendant understands that the
19 discretion lies with the court ultimately to sentence him to
20 a sufficient, but not greater than necessary, in order to
21 comport with the statute of 3553(a). But in that, he
22 understands that they will consider -- the court will
23 consider the United States Sentencing Guidelines.

24 Paragraph 11 states that he understands that the
25 advisory guideline range will be determined by the court at

1 the time of sentence and after the United States Probation
2 Office has been able to gather information and make a report
3 for the court's review. And he understands the United
4 States Attorney's Office will provide all relevant
5 information to prepare that document for the court.

6 As I indicated, this is not a binding plea
7 agreement. However, in paragraph 12, there are joint
8 recommendations to use the advisory sentencing guidelines,
9 that both parties, the defense and the prosecution agree to
10 recommend a sentence within the guideline range as
11 articulated later on in this particular plea agreement, and
12 that neither party will suggest or ask specifically for a
13 departure or variance from that guideline range.

14 As I indicated, paragraph 13, even though there is
15 a joint recommendation, it is not binding upon the court,
16 the court may sentence the defendant to whatever he deems
17 appropriate, considering the factors listed in 3553(a). I
18 would note there is a mandatory minimum of five years, which
19 the court would be bound to.

20 Paragraph 4 [sic] states allocution, which is a
21 fancy legal term that both parties will have an opportunity
22 to speak at sentencing.

23 THE COURT: That's -- you said 4. It's 14.

24 MR. FREEMAN: If I said 4, I meant 14, Your Honor.
25 I apologize.

1 THE COURT: That's all right.

2 MR. FREEMAN: Beginning in paragraph 15 sets forth
3 the stipulated guideline computation. I would note that the
4 index of the guidelines would relay you to Section 2K1.4.
5 However, both parties agree that the cross-reference in that
6 particular statute applies, that making 2A1.5 the
7 appropriate guideline, with a base offense level of 33.
8 That's with any -- without any reduction for acceptance of
9 responsibility.

19 Paragraph 17 is there's a criminal history
20 category, and that the parties have no agreement to that.
21 Just in preliminary discussion, it is both the prosecution
22 and defense anticipation that he is a Criminal History
23 Category I. However, there is no binding agreement to that
24 particular category.

25 Paragraph 18 and 19 was discussed by the court,

1 which is the waiver of appeal rights. Specifically, he's
2 waiving or giving up those rights, with the limited
3 exceptions of punishment in excess of the statutory maximum,
4 in this particular case 20 years, or any sentence to the
5 extent it exceeds the maximum of the range as determined by
6 this particular agreement, using the criminal history
7 category found by the court. Additionally, he gives up any
8 defense based off of the statute of limitations, and he does
9 preserve the right based off of prosecutorial misconduct or
10 ineffective assistance of counsel.

11 I am going to skip over paragraph 20 for the time
12 being, which sets forth a factual basis, and go to the page
13 9, under the title "Other Provisions," sometimes referred to
14 as the miscellaneous provisions of the plea agreement.

15 Paragraph 22 is the defendant agrees to submit a
16 financial statement if requested.

17 Paragraph 23 is the parties are free to advise the
18 court about matters not expressly addressed. That if this
19 agreement is silent on any aspect, that each party is free
20 to advocate as they deem appropriate.

21 Paragraph 24 is consequences of breaching the plea
22 agreement. The defendant understands that if he breaches
23 any promises in this agreement, commits additional crimes,
24 obstructs justice, attempts to withdraw defendant's guilty
25 plea, or if the guilty plea is rejected, vacated or set

1 aside, the United States Attorney's Office will be released
2 from all of its obligations, and it may institute or
3 maintain any charge and make any recommendation with respect
4 to sentence which would otherwise be prohibited under this
5 agreement.

6 Paragraph 25 is this agreement is not binding on
7 other jurisdictions. Meaning this agreement only binds the
8 United States Attorney's Office for the Northern District of
9 Ohio. It does not bind any other federal, state or local
10 government.

11 Paragraph 26 was discussed briefly with the
12 defendant, but he is satisfied with his assistance of
13 counsel, and feels that he has had an appropriate amount of
14 time to discuss this matter with him.

15 Paragraph 27 states that the agreement is complete
16 and voluntary, that there has been no threats or promises
17 made to the defendant other than those contained within this
18 agreement to enter into a guilty plea, and he is making that
19 ultimate decision voluntarily.

20 THE COURT: Thank you, Mr. Freeman.

21 Mr. Nightingale, was that an accurate
22 excerpt/summary of the plea agreement, to your
23 understanding?

24 MR. NIGHTINGALE: Yes, Your Honor.

25 THE COURT: And, Mr. Armstrong, was everything you

1 just heard from Mr. Freeman consistent with your
2 understanding of what's in that plea agreement?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Okay. So I'll just hit on a couple of
5 things that are so important, we need to go over them yet
6 again, because I understand it's been a number of times.

7 The critical one is, I don't know what Judge Carr
8 is going to sentence you to. You don't know what Judge Carr
9 is going to sentence you to. But what I can tell you is, if
10 he happens to sentence you more severely than you expect,
11 that might be a basis under certain limited circumstances,
12 we kind of talked that, might be a basis to take an appeal.
13 But the one thing I can guarantee you is, it won't be a
14 basis to come back and revisit your guilty plea here today.

15 Do you understand that?

16 THE DEFENDANT: Yes.

17 THE COURT: Okay. And again, the sentence in this
18 case is ultimately going to be reflected -- at least a
19 recommended sentence in the presentence investigative
20 report, and that will drive the sentencing guideline
21 calculations. But you just need to understand, those are
22 not binding on the court. Those are advisory in nature.

23 Do you understand that?

24 THE DEFENDANT: Yes, I do.

25 THE COURT: And I don't know what it's going to

1 say, you don't know what it's going to say, we have some
2 idea but we can't say for sure, but what we can say is it's
3 not binding, it's advisory. There's a reference in here
4 you're going to be sentenced ultimately under 18, U.S.C.,
5 Section 3553(a). And it basically lists a whole bunch of
6 considerations, everything from punishing you,
7 incapacitating you, rehabilitating you, and also serving as
8 warning to others and deterrence and those kind of things.

9 But in every instance, for every one of those
10 factors, it requires a sentence which is sufficient, but not
11 excessive. Those are the magic words. And I think
12 Mr. Freeman even used those same words.

13 Do you understand that?

14 THE DEFENDANT: Yes, I do, Your Honor.

15 THE COURT: All right. So in a couple of minutes,
16 I'm going to ask Mr. Freeman about the factual basis for the
17 plea. And what that is, I told you at the beginning I
18 wasn't going to let you plead guilty unless you told me you
19 did what the government says you did. That's set forth in
20 the plea agreement called the factual basis. So it makes it
21 a little easier here, because presumably you and
22 Mr. Nightingale have already read and approved this.

23 But I'm going to -- I'm going to ask Mr. Freeman
24 to put in the record the factual basis for your plea. And
25 what he's essentially doing now, and I know he'll be reading

1 it in large measure from the plea agreement, but he's
2 basically saying, "If the case went to trial, here's what
3 we'd prove." And when he's done, I'm going to ask you if
4 he's right.

5 So please listen and follow along carefully.

6 Mr. Freeman.

7 MR. FREEMAN: Thank you, Your Honor.

8 The factual basis, which I'm about to read
9 verbatim, is articulated in paragraph 20 on page 6 of the
10 plea agreement and then goes on to page 7, 8, and finishing
11 on page 9.

12 It states that "From in or around April of 2018 to
13 December 10th of 2018, in the Northern District of Ohio,
14 Western Division, and elsewhere, Defendants Elizabeth Lecron
15 and Vincent Armstrong did combine, conspire, confederate,
16 and agree to (a) transport and receive in interstate or
17 foreign commerce, an explosive with the knowledge and intent
18 that it would be used to kill, injure, and intimidate an
19 individual; and (b) maliciously damage and destroy by means
20 of fire and explosive materials a building, vehicle, or
21 other real or personal property to be used in interstate or
22 foreign commerce, or in an activity affecting interstate or
23 foreign commerce, in violation of Title 18, United States
24 Code, Section 844(d), (i) and (n).

25 "Defendant Vincent Armstrong met Elizabeth Lecron

1 in approximately February of 2018. They started dating a
2 few months later and moved in together at a residence in
3 Toledo, Ohio. Shortly after meeting, Lecron expressed her
4 interest in mass murderers to him and introduced Armstrong
5 to the 'True Crime Community,' commonly referred to as the
6 'TCC.' The TCC was a group that operated across numerous
7 social media platforms that fixated and lionized mass
8 murderers with its members posting extremely graphic images,
9 videos, and sayings. Lecron primarily used Tumblr to
10 participate in this group under the username
11 'ligaturemarkings,' and then later,
12 'charlestonchurchmiracle.' Armstrong joined the Tumblr TCC
13 community using the profile name 'societysheretic.'

14 "Lebron routinely posted items about the Columbine
15 High School shooters and the Charleston Church shooter,
16 including calling them 'Godlike.' Armstrong made TCC posts
17 including one with the words, 'I wanna -- I wanna contribute
18 to the chaos.'

19 "Lebron and Armstrong privately discussed
20 committing their own mass murder in the Toledo area. They
21 referred to this attack as 'D-day.' They discussed using
22 both guns and explosives during the attack to kill, injure,
23 and intimidate people. They took several steps in
24 preparation for 'D-day.' Armstrong owned an AK-47
25 semiautomatic rifle prior to the formulation of the plan;

1 however, Lecron purchased a Savage shotgun with Armstrong.
2 Both guns were to be used during the attack. Additionally,
3 Lecron and Armstrong went to the shooting range to practice
4 their firearm skills.

5 "Lecron showed Armstrong a website that had
6 detailed instruction on how to make improvised bombs.
7 Armstrong visited the website and printed the instruction to
8 make a pipe bomb. Lecron and Armstrong agreed to buy parts
9 for the pipe bomb. Specifically, on June 3rd of 2018,
10 Armstrong purchased end caps and a drill from a local
11 hardware store. Lecron expressed excitement when Armstrong
12 showed her the parts and they discussed the additional parts
13 still needed like the 'guts,' meaning the explosive
14 material. They were to build the pipe bomb together.

15 "Lecron and Armstrong agreed on what they were
16 going to wear during the attack. Armstrong purchased a
17 trench coat and a T-shirt that read, 'Society Failed Us.'
18 Lecron purchased combat boots that she felt would not slip
19 on all the blood during the attack and a T-shirt that read,
20 'False Prophet.' Their attire was to emulate the Columbine
21 High School shooters.

22 "Armstrong and Lecron discussed several possible
23 targets of this attack to include attacks at a local mall,
24 during an annual costume party, and at a second floor bar in
25 downtown Toledo. Ultimately, Lecron settled on the second

1 floor bar because they regularly frequented the bar, and
2 thus, their presence would not be suspicious, and because it
3 would be harder for victims to escape. This bar was engaged
4 in activity that affected interstate commerce.

5 "Armstrong wrote about 'D-day' in his journal.
6 Specifically, in a journal entry dated June 8th of 2018,
7 Armstrong wrote, 'I have these thoughts ... these memories.
8 They haunt me. I have a vision. A vision to kill. To hunt
9 the unwilling. These peasants to society. The hatred to
10 the human race is bewildering. It feels so good to know I
11 will end it all. Very soon. I am buying a knife this
12 weekend to slay my prey. To shake things up in the world.
13 I have also bought caps from the local hardware store for
14 bombs - pipe bombs to be exact. Soon we will bring
15 destruction on society. Fuck them!! They are worthless
16 ungodlike scum who want to live by "their" rules and
17 constructs!' Below the text there is a stick figure drawing
18 of a person shooting another person in the head.

19 "Lecron made similar journal entries in her own
20 diary about 'D-day.' In a journal entry dated June the 5th
21 of 2018, Lecron wrote that visiting friends this weekend was
22 exhausting, but that 'D-day will be my salvation.' In a
23 journal entry dated June 8th of 2018, she wrote, 'Vinny,'
24 referring to Mr. Armstrong, 'and I got into a fight last
25 night. Not really a fight fight, but I caught him being

1 dishonest. I'm really hurt. Truly. Why does this happen
2 to me??? I still love him immensely and D-day is on track.'
3 In a journal entry dated June 12th of 2018, Lecron wrote, 'I
4 have to practice with my Savage,' meaning her shotgun,
5 'more ... I am not good enough yet. Practice makes
6 perfect.' Below the entry is a drawing of a dead angel.

7 "In August of 2018, Armstrong and Lecron flew from
8 Detroit to Denver to visit the sights related to the
9 shooting at Columbine High School. Lecron detailed this
10 trip on her Tumblr profile. She posted photographs at
11 Columbine High School and the victim's memorial. In these
12 posts, Lecron stated their next trip would be to Charleston
13 to visit 'the church,' a reference to the mass murder that
14 occurred there.

15 "Lecron and Armstrong devised their coverup story
16 if they were caught planning or committing their 'D-day'
17 attack. Specifically, they agreed to tell others that their
18 plan to commit mass murder was merely 'role-playing.'

19 "On December 10th of 2018, law enforcement
20 executed search warrants at their house and vehicles. In
21 the trunk of Armstrong's vehicle was a duffle bag containing
22 a tactical vest with two loaded magazines for an AK-47, two
23 loaded magazines for a pistol; a white T-shirt with black
24 lettering with 'Society Failed Us,' a black trench coat, gas
25 mask, a printout from a website with instructions on how to

1 construct various bombs and instructions to pick a lock. In
2 the residence, law enforcement seized an AK-47, two shotguns
3 including the one purchased by Lecron, two handguns, and
4 ammunition for the guns.

5 "When questioned, Armstrong gave law enforcement
6 their coverup story and stated that all their planning was
7 'role-playing' or fantasy; but later admitted that they
8 genuinely planned on committing the attack for a significant
9 time frame."

10 This would all be in violation of Title 18, United
11 States Code, Section 844, subsection (d), (i) and (n). And
12 he recognize that this is just a summary and not each and
13 every fact that could be proven.

14 THE COURT: Thank you, Mr. Freeman.

15 Were you able to hear all that and follow along,
16 Mr. Armstrong?

17 THE DEFENDANT: Yes.

18 THE COURT: Was he right about all that?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Do you disagree with any part of that?

21 THE DEFENDANT: No, Your Honor.

22 THE COURT: You don't want to make any corrections
23 to it?

24 THE DEFENDANT: No, Your Honor.

25 THE COURT: Mr. Nightingale, do you want to make

1 any additions or corrections to the factual basis for the
2 plea?

3 MR. NIGHTINGALE: No, Your Honor.

4 THE COURT: So in a minute here, Mr. Armstrong,
5 I'm going to ask you if you're ready to enter into this plea
6 agreement. You'll note at the bottom right-hand corner of
7 every page, there is a spot for initials. And what I want
8 is for you and I to have an agreement that if you place your
9 initials in that block, what you're telling me is, "Judge, I
10 understand every word on this page and I agree with it and
11 I'm going to be bound by it."

12 Can we have that understanding as between you and
13 me?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Okay. Are you prepared to put your
16 initials in those blocks?

17 THE DEFENDANT: Yes, I am, Your Honor.

18 THE COURT: Go ahead and do it then.

19 Okay. Then similarly, Mr. Armstrong, on the last
20 page is a signature block for you and your lawyer and also
21 for Mr. Freeman. And the same deal, I only want you to sign
22 it if you're willing to again tell me that "I understand
23 every word in this agreement and I under- -- I'm willing to
24 abide by it."

25 Are you willing to make that deal as well?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Okay, then go ahead and sign it.

7 THE DEFENDANT: Yes, I am, Your Honor.

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Do you think it's in your best
15 interest to enter into this agreement?

16 THE DEFENDANT: Yes, I do.

17 THE COURT: And you're willing to abide by it?

18 THE DEFENDANT: Yes, I am, Your Honor.

19 THE COURT: All right. I am going to cause the
20 plea agreement to be filed for ultimate consideration by the
21 district judge.

22 I guess here we go, Mr. Armstrong:

23 What is your plea to Count 1 of the indictment?

24 THE DEFENDANT: Guilty.

25 THE COURT: So you're telling me that you did, in

1 fact, conspire, combine, confederate and agree with another
2 individual to transport or receive in interstate or foreign
3 commerce an explosive with the knowledge and the intent that
4 it would be used to kill, injure, or intimidate some other
5 person, and that the agreement was to maliciously damage or
6 destroy by means of fire or explosive materials a building,
7 vehicle, or other real or personal property used with
8 interstate or foreign commerce?

9 Are you telling me that's what you did?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Did anyone threaten you to cause you
12 to tell me that?

13 THE DEFENDANT: No, Your Honor.

14 THE COURT: Did anyone promise you anything other
15 than what's contained in your plea agreement?

16 THE DEFENDANT: No, Your Honor.

17 THE COURT: So you're telling me that you are
18 guilty because you are, in fact, guilty?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Okay. Since you acknowledge that you
21 are, in fact, guilty as charged in Count 1 of the
22 indictment, and I presume at the time of sentencing,
23 Mr. Freeman, it's the expectation that -- is he only
24 charged -- no, he's charged in other counts. Those would be
25 dismissed at the time of sentencing; is that correct?

1 MR. FREEMAN: Correct, Your Honor.

2 THE COURT: Okay. Since you acknowledge that you
3 are, in fact, guilty as charged in Count 1 of the
4 indictment, upon my finding that there's an adequate factual
5 basis for your plea, and also that you had the assistance of
6 an able attorney, that you know of your right to trial,
7 which is being waived assuming your plea is accepted, you
8 know what the maximum punishment is, as well as what the
9 advisory guidelines, at least preliminarily, provide, on the
10 basis of the answers which you gave here in court today
11 under oath in the presence of members of the public and
12 seated next to your lawyer, as well as in reliance upon the
13 remarks of counsel for both sides, I hereby make or renew
14 the following findings:

15 I find the defendant competent to make this plea.
16 I find he was advised of his constitutional rights. I find
17 he made a knowing, intelligent and voluntary waiver of those
18 rights. He was advised of his limited rights to appeal both
19 the conviction and the sentence.

20 I further find the plea was made knowingly,
21 voluntarily, with an understanding of the charge, the
22 maximum penalties involved, the effect of the plea, and upon
23 an adequate factual basis.

24 Accordingly, I will enter a finding this day, a
25 recommendation of guilty. That will be taken up by the

1 district judge. Assuming he concurs with my finding, a
2 judgment of guilty shall enter forthwith.

3 And ultimately you will be sentenced in this case
4 on -- I guess I don't have a specific date to give you.
5 I'll tell you it will be at least 16 or 17 weeks from today.
6 So you can figure on four months until the time of
7 sentencing.

8 To expedite the completion of the case, I'm going
9 to immediately refer it to the United States Pretrial and
10 Probation Office for the preparation of a presentence
11 investigation report.

22 Now, you can have Mr. Nightingale there with you,
23 and you should, but at the same time, you need to cooperate
24 with the probation officer who's preparing that report. If
25 you fail to do so, you can expect that that would be called

1 to the district judge's attention, it would be taken into
2 consideration by him in determining what the sentence in
3 this case should be and whether to grant credit for
4 acceptance of responsibility and whether to follow any joint
5 sentencing recommendation that the parties might otherwise
6 make.

7 Mr. Nightingale, as you know, Judge Carr requires
8 that you meet with Mr. Armstrong not less than one week
9 prior to the sentencing hearing to prepare him for that
10 hearing so that there aren't any surprises at that time.

11 Mr. Freeman, I think I've covered everything we
12 need to cover. Is there anything else the government would
13 like to bring up before we adjourn today?

14 MR. FREEMAN: No, Your Honor. Thank you.

15 THE COURT: Mr. Nightingale, on behalf of
16 Mr. Armstrong, anything come to mind that you would like us
17 to take up or you'd like me to cover either more thoroughly
18 or differently?

19 MR. NIGHTINGALE: No, Your Honor.

20 THE COURT: And I guess the most important
21 question of the day:

22 Mr. Armstrong, did you understand everything that
23 just happened here?

24 THE DEFENDANT: Yes, I did, Your Honor.

25 THE COURT: Any questions before we adjourn?

1 THE DEFENDANT: No, Your Honor.

2 THE COURT: All right, then, we will be adjourned.

3 THE CLERK: All rise.

4 (Thereupon, the proceedings were concluded.)

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C E R T I F I C A T E

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3 I certify that the foregoing is a correct transcript,
4 to the best of my ability, transcribed from a digital
5 audio recording from the record of proceedings in the
6 above-entitled matter.

7

8

s/Lori A. Callahan

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